

APPEAL NO. 022529
FILED NOVEMBER 8, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on September 10, 2002. The only issue before the hearing officer was:

1. Did the claimant have disability as a result of the _____, injury from September 15, 2001 through January 16, 2002?

The hearing officer determined that the respondent (claimant) did have disability from September 15, 2001, through January 16, 2002.

The appellant (self-insured) appealed, contending that there was no medical evidence to support the hearing officer's determination and that a Benefit Dispute Agreement (TWCC-24) addressed disability for the period in question. The file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant saw a number of doctors for left upper extremity (UE) and bilateral UE pain and complaints. The claimant saw the initial treating doctor beginning April 11, 2001 (three months prior to the date of injury). The claimant continued working until August 15, 2001, when she was laid off due to lack of funding. The self-insured continued to pay her wages until September 14, 2001. The hearing officer summarizes the medical evidence, including the fact that the claimant went to Taiwan (to see her family) and received acupuncture treatments there. In evidence is a Work Status Report (TWCC-73) from a doctor taking the claimant off work as of December 26, 2001.

On April 18, 2002, the parties entered into an agreement which defined the claimant's extent of injury (not an issue here) and where the "parties agree the claimant has compensable disability from 1-17-02 and continuing in accordance with the Act." The self-insured argues that there is insufficient medical evidence prior to and during the period of September 15, 2001, through January 16, 2002, to establish disability and that the TWCC-24 was intended to include the period at issue. Regarding medical evidence required to support disability the self-insured acknowledged at the CCH that the disability may be established by the claimant's testimony alone, if believed by the hearing officer, but argued that the claimant's testimony was not credible. That, however was solely a matter within the purview of the hearing officer to resolve. She did so and that determination is supported by the evidence.

Although one would think that an agreement regarding disability entered into on April 18, 2002, would include all the time prior to that agreement, the agreement itself did not exclude the September 15, 2001, through January 16, 2002, time period. The benefit review officer's (BRO) report specifically states that the "claimant would not sign an agreement which stated she had no disability from 9-15-[01] to 1-17-[02]. The self-insured was advised of this by the [BRO] in caucus at the Benefit Review Conference." That should have placed the self-insured on notice regarding the claimant's intentions. The hearing officer's determination on this issue is not incorrect as a matter of law and is supported by the evidence.

After review of the record before us and the complained-of determination, we have concluded that there is sufficient legal and factual support for the hearing officer's decision. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MANAGER
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge